



Office of the Deputy Attorney General
Washington, D.C. 20530

May 14, 2013

Gary B. Pruitt
President and CEO
Associated Press
450 W. 33rd Street
New York, NY 10001

Dear Mr. Pruitt:

I am writing in response to your May 13, 2013, letter concerning the Department of Justice's notification on Friday, May 10, 2013, that it is in receipt of subpoenaed toll records for April and May 2012 for certain telephone numbers associated with the Associated Press.

As you know, Department policy provides that we should issue subpoenas for phone records associated with media organizations only in certain circumstances. There should be reasonable grounds to believe that a federal crime has been committed and that the information sought by the subpoena is essential to a successful investigation. The Department should take all reasonable alternative investigative steps before even considering the issuance of a subpoena for toll records related to a media organization. Any subpoena that is issued should be drawn as narrowly as possible, be directed at relevant information regarding a limited subject matter, and should cover a reasonably limited period of time. We are required to negotiate with the media organization in advance of issuing the subpoenas unless doing so would pose a substantial threat to the integrity of the investigation. We take this policy, and the interests that it is intended to protect, very seriously and followed it in this matter.

In May 2012, the Department of Justice opened criminal investigations into the unauthorized disclosure of classified information. Because such disclosures can risk lives and cause grave harm to the security of all Americans, the Department thoroughly investigates cases in which government employees and contractors trusted with our nation's secrets are suspected of willfully disclosing that information to individuals not entitled to them. Even given the significant public interest in enforcing criminal laws that protect our national security, seeking toll records associated with media organizations is undertaken only after all other reasonable alternative investigative steps have been taken. In this case, the Department undertook a comprehensive investigation, including, among other investigative steps, conducting over 550 interviews and reviewing tens of thousands of documents, before seeking the toll records at issue.

We understand your position that these subpoenas should have been more narrowly drawn, but in fact, consistent with Department policy, the subpoenas were limited in both time and scope. As you know, for each of the phone numbers referenced in our May 10, 2013, letter there was a basis to believe the numbers were associated with AP personnel involved in the

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reporting of classified information. The subpoenas were limited to a reasonable period of time and did not seek the content of any calls. Indeed, although the records do span two months, as we indicated to you last week, they cover only a portion of that two-month period. In addition, these records have been closely held and reviewed solely for the purposes of this ongoing criminal investigation. The records have not been and will not be provided for use in any other investigations.

Given the ongoing nature of this criminal investigation involving highly classified material, I am limited in the information that I can provide to you. Please understand that I appreciate your concerns and that we do not take lightly the decision to issue subpoenas for toll records associated with members of the news media. We strive in every case to strike the proper balance between the public's interest in the free flow of information and the public's interest in the protection of national security and effective enforcement of our criminal laws. We believe we have done so in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. M. Cole', with a stylized flourish at the end.

James M. Cole
Deputy Attorney General